REMARKS

Claim 1, for example, calls for receiving packets of two types and transmitting packets of one type ahead of packets of another type. The packets that take longer to process are bypassed in favor of packets that take less time to process.

None of the cited references teach any such system. As a result, the following argument is made which it is respectfully suggested, fails to make out a *prima facie* rejection:

> It would have been obvious to a person of an ordinary skill in this art to provide a similar arrangement for Petersen et al., Akhtar, or Blocking et al. because it is conventional and standard practice to employ a lower priority for more complex and lengthy packets because secure packets require greater precision due to unrecoverability of the key employed if even a few bits are in error and these components are no more than the conventional equivalents of what is disclosed in the primary items of evidence.

Office action, page 3, lines 9-18.

To the extent this is a suggestion of well known art, it is respectively challenged pursuant to the rules. To the extent it is an attempt to provide a rationale to combine, it is contrary to the rules for a *prima facie* rejection which necessitate that the rationale come from within the prior art and not from the Examiner's assertions based on hindsight reasoning. Finally, to the extent it suggests some principle of prior art equivalency, it is unsupported by U.S. patent law. Therefore, it is respectfully submitted that a *prima facie* rejection is not made out.

More to the point, the so-called primary evidence, in the form of Petersen, Akhtar, and Böcking, fails to teach anything pertinent to the claimed invention. None of them teach de-prioritizing packets that take longer to process by bypassing them in favor of packets that take less time to process.

Petersen, in the abstract, specifically explains his priority scheme, "Data that is highly sensitive to transmission delays (e.g., voice data) will be assigned a high priority, while data that is less sensitive to transmission delays (e.g., signal strength measurement data) will be assigned a lower priority." Thus, contrary to the assertions in the office action, prioritization is based on transmission delays, not on process times.

Moreover, the office action asserts, without support, on page 2 that "note that real time data takes precedence over non-real time data, video, MPEG over data, and quality of service higher over lower priority and that the priority of service classes is implicit in IP protocols. Note that video data takes longer to process than other control data because of compression."

However, contrary to that assertion, the Petersen reference prioritizes voice data, not video data. Even more pointedly, as shown in the table in Table 1, the highest priority (priority 1) is voice packets, the next highest priority is "circuit data." "Circuit data" does not include video, it includes "voice related video." Presumably, video data goes as the lowest priority data packets. Thus, the assertion of the video priority is directly rebutted by the cited reference. Plainly, the cited Petersen reference directly and unambiguously teaches away from the claimed invention, using the very logic espoused in the office action at the bottom of page 2.

The basis for citing Akhtar is not discernable. Akhtar has nothing of any pertinency whatsoever and nothing in Akhtar has ever been cited to. There is nothing about any priority based on process time. Thus, if the rejection is to be maintained, pursuant to the rules, the Examiner is respectfully requested to cite specific language within the reference which supports the assertion of prioritizing based on process time. Failing such a citation, the rejection fails to make out a *prima facie* rejection based on Akhtar.

Similarly, the cited reference to Böcking teaches away from the claimed invention because priority classes are assignable to the packet based on user requests or priorities, not based on process time. Nothing whatsoever in the reference suggests that process time has any bearing whatsoever on assigned priority levels.

With respect to DeGolia and Lockhart, the office action clearly concedes that they do not prioritize based on process time. Apparently they are only cited as teaching transmitting security and non-security packets. To the extent that they fail to teach prioritizing security packets over non-security packets and sending non-security packets ahead of security packets, they fail to teach claim 2 and, more pertinently, directly teach away from the claimed invention. Again, to the extent that anything in these references is relied on, it should be pointed out. For example, with respect to DeGolia, the only thing that is cited is Figure 3 which has nothing to do with prioritization. Also cited is claim 12 which also has nothing to do with prioritization. Similarly, cited column 4, lines 30-40, talks about sending based on the type of delivery service instead of
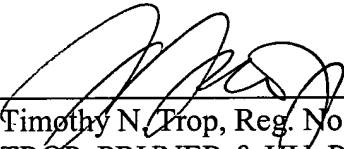
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based on the process time, as claimed. Therefore, the cited reference to DeGolia fails to support the rejection.

Likewise, the cited reference to Lockhart and Figure 1 has nothing to do with any kind of priority scheme. To the extent that continued reliance on this reference is maintained, it is respectfully requested that specific citations be provided of any material which purports to support the rejection.

Thus, since nothing has been cited and, in fact, nothing appears to be pertinent in any of the cited references, a *prima facie* rejection is not made out. Therefore, reconsideration would be appropriate.

Respectfully submitted,

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Timothy N. Trop, Reg. No. 28,994
TROP, PRUNER & HU, P.C.
8554 Katy Freeway, Ste. 100
Houston, TX 77024
713/468-8880 [Phone]
713/468-8883 [Fax]

Attorneys for Intel Corporation